INSURANCE ASSOCIATION
OF CONNECTICUT

February 26, 2019

RE: HB 6916, AN ACT EXPANDING REMEDIES AND POTENTIAL LIABILITY FOR UNREASONABLY CONTESTED OR DELAYED WORKERS' COMPENSATION CLAIMS

I am Joy Avallone, General Counsel of the Insurance Association of Connecticut (IAC) a state-based trade association for Connecticut's insurance industry. Thank you for the opportunity to provide comments in opposition to HB 6916, An Act Expanding Remedies and Potential Liability for Unreasonably Contested or Delayed Workers' Compensation Claims.

Having had the privilege to work for the State of Connecticut as an Assistant Attorney General exclusively in its Workers' Compensation Department for nearly seven years, I am intimately aware of the robust system of benefits available to our state's injured workers.

While HB 6919 is well intended, expanding remedies and increasing liability will not accomplish any of its goals to (1) prevent injured workers from losing their jobs due to undue delay in care, (2) limit the number of times doctors and attorneys attend hearings to ensure injured workers receive timely medical care, (3) prevent injured workers from going on long-term disability and losing their jobs, (4) help employers retain well-trained staff, or (5) prevent shifting the cost of workers' compensation insurance coverage to the Medicaid program.

By way of background, the Connecticut Workers' Compensation Act guarantees medical care and payment of lost wages for employees who suffer work-related injury, illness or death, regardless of fault or negligence on the part of the employee. In order to qualify for benefits, the injured employee need only show that his or her injury arose out of and in the course of employment. Because the burden of proof for a claimant is so low, the vast majority of claims are accepted in an extremely expedient manner and reasonable medical care is authorized accordingly.

While it is often the case that an employee suffers a common or minor injury, receives treatment within the standard of practice and returns to work without question or objection from an employer, the occasion does arise where the injury is not clearly attributed to the employee's employment, not easily diagnosed, or its treatment is not straightforward. In order to prevent abuse of the system and to ensure that only reasonable and necessary treatment is being tendered, employers must be permitted to perform investigations and obtain respondent medical exams (which are essentially second opinions). As is the case with treatment of non-work related injuries, second opinions serve the best interest of the injured party.

On the rare occasion that unreasonable or undue delay does occur, commissioners have broad authority to order fines and penalties under:

- C.G.S. §31-288(b)(1) which provides "whenever through the fault or neglect of an employer or insurer, the adjustment or payment of compensation due under this chapter is unduly delayed, such employer or insurer may be assessed by the commissioner hearing the claim a civil penalty of not more than **one thousand dollars for each such case of delay, to be paid to the claimant**;
- C.G.S. §31-288(b)(2) which provides "whenever either party to a claim under this chapter has unreasonably, and without good cause, delayed the completion of the hearings on such claim, the delaying party or parties may be assessed a **civil penalty of not more than five hundred dollars by the commissioner hearing the claim for each such case of delay**";
- C.G.S. §31-300 in "cases where, through the fault or neglect of the employer or insurer, adjustments of compensation have been unduly delayed, or where through such fault or neglect, payments have been unduly delayed, the commissioner may include in the award interest at the rate prescribed in section 37-3a and a **reasonable attorney's fee in the case of undue delay in adjustments of compensation and may include in the award in the case of undue delay in payments of compensation, interest at twelve per cent per annum and a reasonable attorney's fee**"; and
- C.G.S. §31-303 which provides for **20% penalty** for late payments agreed to under a voluntary agreement, **in addition to any other interest or penalty imposed pursuant to the provisions of the workers' compensation act.**

Additionally, when injured workers are out of work for extended periods of time, they enjoy job protection from family and medical leave acts (FMLA) as well as the Connecticut Workers' Compensation Act.

In the unlikely and uncommon event that an employee is wrongfully terminated, an injured worker may bring a claim under C.G.S. §290a. If successful, the injured worker "may be awarded the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he otherwise would have been eligible if he had not been discriminated against or discharged...[and] reasonable attorney's fees."

Because ample remedies exist to address the issues contemplated by this proposed legislation, and because the intended goals will not be accomplished by this legislation, the IAC urges this committee to oppose HB 6916.